

Before the

**Federal Communications Commission**

Washington, D.C. 20554

FEB 5 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Automatic and Manual Roaming Obligations )  
Pertaining to Commercial Mobile Radio )  
Services )

WT Docket No. 00-193

To: The Commission

**QWEST WIRELESS, LLC COMMENTS**

Qwest Wireless, LLC ("Qwest Wireless")<sup>1</sup> hereby submits reply comments in the above-captioned proceeding.<sup>2</sup> Qwest Wireless agrees with those parties commenting in opposition to Commission adoption of a separate automatic roaming requirement. Qwest Wireless also agrees that the Commission should be prepared to exercise its authority under Title II of the Communications Act (the "Act") to ensure that carriers are able to enter into automatic roaming agreements on terms that are just and reasonable. In Qwest Wireless' view, the Commission can best promote the availability of automatic roaming -- and its benefits for competition and consumers -- by continuing to allow carriers to voluntarily enter into commercially reasonable

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<sup>1</sup> Qwest Wireless, LLC (formerly U S WEST Wireless, LLC ), together with TW Wireless, LLC, a joint venture in which Qwest Wireless holds a majority equity and sole controlling ownership interest, provides broadband PCS services in a number of markets.

<sup>2</sup> *Automatic and Manual Roaming Obligations Pertaining to Commercial Mobile Radio Services, Notice of Proposed Rulemaking*, WT Docket No. 00-193, FCC 00-361 (Nov. 1, 2000) ("Notice").

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automatic roaming agreements, subject to ongoing monitoring and exercise of the Commission's Title II authority to address instances of anticompetitive conduct.

## **DISCUSSION**

### **I. A COMMISSION-IMPOSED SEPARATE AUTOMATIC ROAMING REQUIREMENT IS UNNECESSARY AT PRESENT**

Qwest Wireless is a broadband PCS licensee in several BTA markets throughout the western United States, with spectrum holdings primarily in the D and E spectrum blocks.<sup>3</sup> Qwest Wireless has aggressively and successfully deployed and marketed its services throughout its service areas. In order to provide seamless service to its customers nationwide and to more effectively compete with the nationwide carriers competing in its markets, Qwest Wireless has entered into a number of automatic roaming agreements with other CDMA broadband PCS and cellular carriers. As Qwest Wireless's home markets are limited to a particular region, its ability to enter into automatic roaming arrangements is critical to provide reliable and competitive services to the public.

To date, Qwest Wireless has generally been able to obtain automatic roaming arrangements on reasonable terms -- without a Commission-imposed automatic roaming requirement. Moreover, Qwest Wireless is concerned that a separate rule is unnecessary. While an automatic roaming requirement would likely change the bargaining posture of carriers negotiating such agreements, a new rule would necessarily impose burdens on *all* wireless carriers, large and small.<sup>4</sup> For these reasons, Qwest Wireless does not, at this time, support adoption of an automatic roaming requirement. Rather, Qwest Wireless concurs with the

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<sup>3</sup> See Notice at ¶ 17 n.50.

<sup>4</sup> See Leap Wireless Comments at 6 (discussing expanding billing requirements); Rural Cellular Association 3-4; NTCA Comments at 4-5; Cingular Wireless Comments at 8 (discussing administrative costs associated with automatic roaming).

comments filed by other broadband PCS carriers, such as Sprint PCS and Leap Wireless, that an automatic roaming requirement is unnecessary at present.<sup>5</sup> Notably, a broad range of CMRS carriers support this view.<sup>6</sup> There is significant record support that market forces are working to facilitate automatic roaming agreements between carriers, and the Commission should not at this time intervene by imposing a separate regulatory obligation on all carriers.

## **II. THE COMMISSION SHOULD CONTINUE TO USE TITLE II AUTHORITY TO ADDRESS ANTICOMPETITIVE ROAMING ARRANGEMENTS**

Commenters have also demonstrated that market conditions may sometimes result in roaming agreements that are anticompetitive and contrary to consumers' interests. As the record submitted in this proceeding indicates, market conditions and the carriers' respective circumstances may vary widely, and instances of anticompetitive conduct may arise.<sup>7</sup> The Commission should therefore confirm its willingness to exercise its undisputed authority under Sections 201, 202 and 208 of the Act to ensure that roaming carriers do not unlawfully exercise any market power they may have in setting the terms and conditions of automatic roaming agreements.<sup>8</sup> This approach is consistent with Commission precedent,<sup>9</sup> and remains an essential enforcement tool for purposes of preserving competition in today's CMRS marketplace.

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<sup>5</sup> See Sprint PCS Comments at 1; Leap Wireless Comments at 2-7.

<sup>6</sup> See, e.g., Cingular Comments at 1-4; Rural Cellular Ass'n Comments at 3-4; US Cellular Comments at 2-6; Verizon Wireless Comments at 1-5.

<sup>7</sup> See NTCA Comments at 5-7; Rural Cellular Ass'n Comments at 4-5; Sprint PCS Comments at 2-9; US Cellular Comments at 6-8.

<sup>8</sup> See NTCA Comments at 7; Rural Cellular Ass'n Comments at 4-5; Sprint PCS Comments at 9-10; US Cellular Comments at 7; Verizon Wireless Comments at 10-11.

<sup>9</sup> See *Notice of Proposed Rulemaking*, 10 FCC Rcd. 10666, 10693-94 (1995).

The record in this proceeding reflects that this approach is supported by commenting carriers of all types, including newer broadband PCS licensees and incumbent cellular carriers. In sum, there is consensus both as to (i) the Commission's authority to exercise its Title II authority in evaluating roaming arrangements, and (ii) the necessity for the Commission do so in appropriate circumstances.

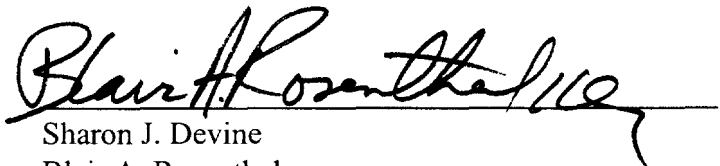
## **CONCLUSION**

As discussed herein, the Commission should not impose automatic roaming requirements on carriers but should, instead, exercise its Title II authority to intervene against roaming carriers who act anticompetitively to consumers' detriment. The Commission should affirm in this proceeding its willingness to exercise its Title II authority in this manner.

Respectfully submitted,

**QWEST WIRELESS, LLC**

By:

A handwritten signature in black ink, appearing to read "Blair A. Rosenthal", is written over a horizontal line.

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